

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

DONNA WOOD, et al., individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

MIKE BLOOMBERG 2020, INC.,

Defendant.

Case No. 20-cv-2489 (LTS) (GWG)

PLAINTIFFS' NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT

PLEASE TAKE NOTICE, pursuant to Rule 56 of the Federal Rules of Civil Procedure and the Local Rules of the Court, Plaintiffs respectfully move the Court for partial summary judgment in their favor on the following issue: (1) Defendant Mike Bloomberg 2020, Inc. is a covered enterprise under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* The grounds for this Motion are fully set forth in the accompanying Memorandum of Law, Local Rule 56.1 Statement of Undisputed Facts; Declaration of Justin M. Swartz and the exhibits annexed thereto, filed in support of this Motion. Plaintiff requests oral argument in connection with this Motion.

Plaintiffs respectfully request that the Court refrain from ruling on any motion for summary judgment, including this motion, until after it rules on Plaintiffs' Motion for Class Certification, ECF No. 382, which is currently pending. A ruling on a merits motion prior to Plaintiffs' class certification motion would give rise to the one-way intervention problem. *See Ddmb, Inc. v. Visa, Inc.*, No. 05 MD 1720, 2021 U.S. Dist. LEXIS 249783, at *141-44 (E.D.N.Y. Sept. 27, 2021). Accordingly, "courts within the Second Circuit and other circuit courts have held that 'in general, issues relating to class certification should be decided before a decision on

the merits is rendered.’’ *Id.* (quoting *Mendez v. Radec Corp.*, 260 F.R.D. 38, 44 (W.D.N.Y. 2009)).

Plaintiffs raised these concerns with the Court, *see* ECF No. 430, but the Court declined Plaintiffs’ request to schedule summary judgment briefing after a class certification ruling, ECF No. 431. Plaintiffs, therefore, are filing this motion now because they are entitled to the relief requested and in order to comply with the Court’s order that summary judgment briefing be initiated by March 15, 2024. ECF No. 431.

Plaintiffs hereby certify that they used their best efforts to resolve informally the issue raised in this motion in accordance with Rule A.2.b. of the Individual Practices of Hon. Laura Taylor Swain. Specifically, Plaintiffs sent a letter to Defendant’s counsel on March 13, 2024 notifying it of their intention to file this motion, including the factual and legal grounds for the motion. The parties conferred via telephone on March 14, 2024 and, during that call, confirmed that the parties were at impasse regarding Plaintiffs’ motion.

WHEREFORE, as set forth herein, Plaintiffs respectfully request that the Court enter an Order granting their Motion for Partial Summary Judgment.

Respectfully submitted,

Dated: March 15, 2024

By: /s/ Justin M. Swartz

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